

COPY

Attorney or Party Name, Address, Telephone, and FAX Numbers, and California State Bar Number Richard L. Wynne (SBN 120349) Sharon M. Kopman (SBN 164449) KIRKLAND & ELLIS 777 South Figueroa Street Los Angeles, CA 90017	FOR COURT USE ONLY <div style="border: 2px solid black; padding: 5px; text-align: center;"> <b>FILED</b>  <b>JUL 26 2002</b>  <small>CLERK, U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA</small> </div>
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA</b>	
In re: RITTER RANCH DEVELOPMENT L.L.C.          Debtor(s).	CASE NO.: SV 98-25043 GM

### NOTICE OF SALE OF ESTATE PROPERTY

<b>Sale Date:</b> <u>No hearing per Local Bankruptcy Rule 9013-1(g)(1)(a) unless requested</u>	<b>Date:</b> _____
<b>Location:</b> _____	

Type of Sale: ☐ Public ☒ Private      Last date to file objections: 8/8/02

Description of Property to be Sold: The Estates' Litigation Claims against MKD and other defendants for, among other things, failure to consummate the financing transaction.

Terms and Conditions of Sale: See Stipulation attached as Exhibit "1" to Declaration of Robbin L. Itkin annexed to the Motion and Notice attached hereto as Exhibit "A"

Proposed Sale Price: See Stipulation attached as Exhibit "1" to Declaration of Robbin L. Itkin annexed to the Motion and Notice attached hereto as Exhibit "A"

Overbid Procedure (If Any): N/A

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e-mail address):

N/A  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_

1 RICHARD L. WYNNE (SBN 120349)  
2 SHARON M. KOPMAN (SBN 164449)  
3 **KIRKLAND & ELLIS**  
777 South Figueroa Street  
Los Angeles, California 90017

4 Telephone: (213) 680-8400  
5 Facsimile: (213) 680-8500

6 Attorneys for Chapter 11 Trustee  
Robbin L. Itkin

7  
8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10 **SAN FERNANDO VALLEY DIVISION**

11 In re

12 RITTER RANCH DEVELOPMENT, L.L.C.,

13 Debtor.  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case No. SV 98-25043 GM

Chapter 11

**NOTICE OF MOTION AND MOTION OF  
CHAPTER 11 TRUSTEE FOR ORDER  
AUTHORIZING SALE OF CERTAIN  
CAUSES OF ACTION OF DEBTOR'S  
ESTATE; MEMORANDUM OF POINTS  
AND AUTHORITIES IN SUPPORT  
THEREOF; DECLARATION OF ROBBIN  
L. ITKIN, AND EXHIBITS THEREON**

[No Hearing Required Pursuant to Local  
Bankruptcy Rule 9013-1(g)(1)(A)]

1 TO THE HONORABLE GERALDINE MUND, UNITED STATES BANKRUPTCY  
2 COURT; THE UNITED STATES TRUSTEE; DEBTOR; SECURED CREDITORS;  
3 AND ALL OTHER INTERESTED PARTIES:

4 PLEASE TAKE NOTICE that Robbin L. Itkin, in her capacity as Chapter 11  
5 Trustee (the "Trustee"), on behalf of the estate ("Estate") of Ritter Ranch Development,  
6 L.L.C., Chapter 11 debtor herein (the "Debtor"), hereby moves the Court ("Motion") for  
7 the entry of an order authorizing the Trustee, in return for specific consideration as  
8 noted below, to sell, transfer, and assign to Debtor's managing member, Ritter  
9 Development, Inc. ("RDI"), and RDI's professionals, including Christensen, Miller, Fink,  
10 Jacobs, Glaser, Weil & Shapiro, L.L.P. ("Christensen Miller"); Levene, Neil Bender,  
11 Rankin & Brill L.L.P., Frasca, Joiner, Goodman & Greenstein, P.C., Kutak Rock LLP;  
12 and Saybrook Capital Corporation (collectively, the "Professionals"), the right to  
13 prosecute the rights, claims and interests of Debtor's Estate against M.K.D. Capital  
14 Corporation ("MKD") and others<sup>1</sup> ("MKD Litigation"), arising from MKD's failure to  
15 consummate the approximately \$135 million credit facility financing transaction as  
16 promised ("Litigation Claims"). Without the funding from the proposed financing  
17 transaction, the Debtor was, among other things, unable to develop Debtor's property  
18 known as Ritter Ranch, and to pay Debtor's creditors in full, as was proposed based  
19 upon the funding commitments by MKD.

20 Debtor entered into an agreement with MKD to fund a credit facility in the amount  
21 of \$135 million to develop Ritter Ranch. In connection with the financing transaction,  
22 Debtor's managing member, RDI, on behalf of the Debtor, funded various deposits to  
23 MKD, as Debtor was not in a financial position to do so. The Trustee has been informed  
24 that the Professionals incurred certain fees and expenses in connection with negotiating  
25 the financing transaction for the benefit of the Debtor. Certain of these Professionals  
26

27  
28 <sup>1</sup> In addition to MKD, the other defendants include, but are not limited to, Avram "Avi" Lebor, Martin B. Epstein, Esq., Donald M. Klabin, Judd Kassuba (collectively the "Defendants").

1 have filed administrative expenses against the Debtor's Estate. The Trustee has not  
2 completed her review of these administrative expenses, and therefore reserves her right  
3 to object, if necessary, to any such asserted administrative expenses on any grounds.

4 The Debtor's Estate does not have the funds that are necessary to prosecute an  
5 action against MKD and certain other Defendants even though such recovery action  
6 would be beneficial to the Estate in that it may bring cash to pay creditors and would act  
7 to reduce the allowed administrative expenses of the Professionals filed against the  
8 Estate.

9 RDI has agreed to advance or otherwise arrange to pay for the cost and  
10 expenses to pursue the Litigation Claims of the Estate, RDI, and RDI's Professionals  
11 against the Defendants and the Trustee has agreed to sell and assign such Litigation  
12 Claims to RDI and the Professionals based upon the terms set forth in the "Stipulation  
13 Re Prosecution of Claims" ("Stipulation"), a true and correct copy of which is attached  
14 as Exhibit "1" to the Declaration of Robbin L. Itkin ("Itkin Declaration") annexed to the  
15 Motion.<sup>2</sup> The Trustee, on behalf of the Estate, requests that this Court approve the  
16 Stipulation executed together with RDI and RDI's Professionals, the material terms of  
17 which are as follow:

18 1. The Stipulation is conditioned upon Bankruptcy Court approval of such  
19 Stipulation.

20 2. RDI and the Professionals agree to bear all of the costs associated with  
21 the prosecution of the Litigation Claims against the Defendants. Other than limited  
22 cooperation to enable the preparation of pleadings and motions, appearances in court,  
23 or other testimony, as required to successfully complete the MKD Litigation, neither the  
24 Trustee on behalf of the Estate, nor the Debtor, will be required to forward any funds or  
25 provide other services in the prosecution of the MKD Litigation.

26  
27  
28 <sup>2</sup> To the best of the Trustee's knowledge, no third party has any liens or any other interests that would  
attach to the Litigation Claims.

1           3.     RDI will retain the law firm of Christensen Miller to actively participate in,  
2 and expend time, money, and effort to successfully pursue, the Litigation Claims of the  
3 Estate, RDI, and RDI's Professionals (as third party beneficiaries) against the  
4 Defendants in the MKD Litigation.

5           4.     In consideration for the time, money, and effort expended by RDI and  
6 RDI's Professionals, on behalf of the Estate, in pursuing the MKD Litigation, any  
7 recovery from the MKD Litigation will be allocated according to the following formula  
8 (the "Formula"):

9           A.     First, the return of both reasonable actual (i) out-of-pocket  
10 expenses; and (ii) attorneys' fees incurred by RDI, Christensen Miller, and the Trustee  
11 and her professionals at Kirkland & Ellis ("K&E") (to the extent the Trustee and her  
12 professionals at K&E are either required, or expressly requested by RDI or Christensen  
13 Miller, to incur such fees and expenses), in connection with the MKD Litigation at the  
14 hourly rates attached as Exhibit "A" to the Stipulation which is annexed as Exhibit "1" to  
15 the Itkin Declaration.

16           B.     Seventy percent (70%) of the remaining proceeds recovered  
17 through the MKD Litigation shall go to RDI and RDI's Professionals on such basis as  
18 RDI and RDI's Professionals may agree. Any monies received by RDI and RDI's  
19 Professionals as part of the 70% recovery under this section shall reduce dollar for  
20 dollar any claims RDI and each of the Professionals, respectively, assert against the  
21 Estate.

22           C.     Thirty percent (30%) of the remaining proceeds recovered through  
23 the MKD Litigation shall be delivered to the Trustee on behalf of the Estate to cover the  
24 costs of administration of the Estate herein and payment of any unpaid creditors of the  
25 Estate.

26           The Motion is supported by this Notice of Motion and the Motion, the attached  
27 Memorandum of Points and Authorities, which sets forth the appropriate grounds upon  
28

1 which relief may be granted, the Itkin Declaration, the Exhibits, and any arguments of  
2 counsel made at the hearing on the Motion.

3 In accordance with Rule 2002(a)(3) of the Federal Rules of Bankruptcy  
4 Procedure, this Notice of Motion will be served upon all parties in interest to this  
5 bankruptcy proceeding, without a copy of the Supporting Memorandum of Points and  
6 Authorities. If there are parties interested in obtaining copies of the Memorandum of  
7 Points and Authorities, they may request a copy by contacting the counsel for the  
8 Trustee, in writing, at the address listed in the upper-left hand corner of the first page of  
9 this Notice.

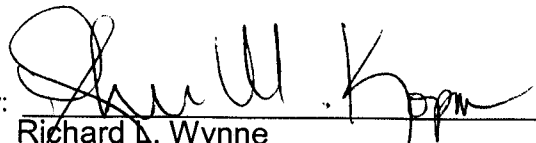
10 The Trustee requests that the Court approve the Motion without a hearing,  
11 pursuant to Local Bankruptcy Rule 9013-1(g)(1)(A). If there is a party who opposes the  
12 Motion, such party is required to file with the Court and serve upon the Trustee's  
13 counsel, a written response that complies with Local Bankruptcy Rule 9013(a)(7) and  
14 request for a hearing within fifteen (15) days from the date of this Notice. Upon receipt  
15 of a timely written response, the Trustee will schedule a hearing on the Motion,  
16 providing at least eleven (11) days notice of the hearing to all objecting parties, as well  
17 as the Office of the United States Trustee.

18 Waiver of the right to object will be presumed in the absence of a timely written  
19 objection to the Motion. Upon the expiration of the objection period, where no party in  
20 interest files a timely objection, the Trustee will file a declaration with the Court  
21 conveying the lack of objection in conjunction with an order for approval without a  
22 hearing on the Motion.

1                   **WHEREFORE**, the Trustee respectfully requests that the Court enter an  
2 order (i) granting the Motion; (ii) approving the terms of the Stipulation; and (iii) for any  
3 further relief the Court deems just and proper.

4  
5 DATED: July 25, 2002

KIRKLAND & ELLIS

6  
7 By:   
8 Richard L. Wynne  
9 Sharon M. Kopman  
10 Attorneys for Robbin L. Itkin,  
11 in her capacity as Chapter 11 Trustee  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DECLARATION OF SERVICE

I am over the age of eighteen years and not a party to the within action. I am employed in an office that employs a member of the bar of this Court, at whose direction the within service was made. My business address is KIRKLAND & ELLIS, 777 South Figueroa Street, Los Angeles, California 90017.

On July 25, 2002 I served the following NOTICE OF SALE OF ESTATE PROPERTY on the interested party by placing true copies thereof, enclosed in sealed envelopes addressed as follows:

U.S. Trustee's Office  
MaryAnne Wilsbacher  
Office of the U.S. Trustee  
21051 Warner Center Lane, Suite 115  
Woodland Hills, CA 91367

The above-described pleading was transmitted to the indicated parties set forth above in the manner described below:

**By United States Mail.**

[ X ] \*I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 25, 2002 at Los Angeles, California.

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

  
MARCELLA CALDWELL